

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
State Admin Rule Filing Id:		Time filed:	

		Agency No.		Rule No.		Section No.
Utah Admin. Code Ref (R no.):	R	156	-	55a	-	602
Changed to Admin. Code Ref. (R no.):	R		-		-	

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Dan S. Jones	801-530-6720	801-530-6511	dansjones@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2.	Title of rule or section (catchline):
	Contractor License Bonds
3.	Type of notice:
	New ___; Amendment XX; Repeal ___; Repeal and Reenact ___
4.	Purpose of the rule or reason for the change:
	The Division and Construction Services Commission are proposing amendments to allow a lower license bond amount to be posted by contractors in certain classifications of licensure.
5.	This change is a response to comments from the Administrative Rules Review Committee.
	No XX; Yes ___
6.	Summary of the rule or change:
	The proposed amendments to this section allow contractors with the R100 classification to post a license bond as low as \$25,000 instead of the \$50,000 minimum in the existing rule. The proposed amendments also allow contractors with lower subclassifications to post a license bond as low as \$15,000 instead of the existing \$50,000 minimum license bond amount required. The proposed amendments also provide the amount of the license bond may be higher or lower than the amounts identified in particular circumstances.
7.	Aggregate anticipated cost or savings to:
	A) State budget:
	Affected: No ___; Yes XX

	<p>The Division will incur minimal costs of approximately \$50.00 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.</p>	
	<p>B) Local government:</p>	
	<p>Affected:</p>	<p>No XX; Yes ____</p>
	<p>The proposed amendments only apply to licensed contractors and applicants for licensure as a contractor. As a result, the proposed amendments do not apply to local governments.</p>	
	<p>C) Small businesses ("small business" means a business employing fewer than 50 persons):</p>	
	<p>Affected:</p>	<p>No ____; Yes XX</p>
	<p>The proposed amendments only apply to licensed contractors and applicants for licensure as a contractor. The proposed amendments will allow lower bond costs for a limited number of contractors who must post a license bond in order to qualify for licensure as a contractor. It is impossible for the Division to estimate the amount of savings that will result due to a wide range of circumstances with contractor applicants and licensees.</p>	
	<p>D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):</p>	
	<p>Affected:</p>	<p>No ____; Yes XX</p>
	<p>The proposed amendments only apply to licensed contractors and applicants for licensure as a contractor. The proposed amendments will allow lower bond costs for a limited number of contractors who must post a license bond in order to qualify for licensure as a contractor. It is impossible for the Division to estimate the amount of savings that will result due to a wide range of circumstances with contractor applicants and licensees.</p>	
8.	<p>Compliance costs for affected persons:</p>	
	<p>The proposed amendments only apply to licensed contractors and applicants for licensure as a contractor. The proposed amendments will allow lower bond costs for a limited number of contractors who must post a license bond in order to qualify for licensure as a contractor. It is impossible for the Division to estimate the amount of savings that will result due to a wide range of circumstances with contractor applicants and licensees.</p>	
9.	<p>A) Comments by the department head on the fiscal impact the rule may have on businesses:</p>	
	<p>No fiscal impact to businesses is anticipated from this rule filing. However, affected licensees may see a cost savings as a result of the change to license bond amount requirements.</p>	
	<p>B) Name and title of department head commenting on the fiscal impacts:</p>	
	<p>Francine A. Giani, Executive Director</p>	
10.	<p>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.</p>	
	<p>State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :</p>	
	<p>Subsection 58-1-106(1)(a)</p>	<p>Subsection 58-1-202(1)(a)</p>
	<p>Section 58-55-101</p>	<p>Subsection 58-55-308(1)(a)</p>
	<p>Subsection 58-55-102(39)(a)</p>	
11.	<p>This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; <i>if none, leave blank</i>):</p>	
	First Incorporation	Second Incorporation
	Official Title of Materials Incorporated (from title page)	
	Publisher	
	Date Issued	
	Issue, or version	
	ISBN Number (optional)	
	ISSN Number (optional)	
	Cost of Incorporated Reference	
	Action: Adds, updates, or removes	

	(If this rule incorporates more than two items by reference, please attach additional pages)		
12.	The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)		
	A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):		07/02/2012
	B) A public hearing (optional) will be held:		
	On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
	06/28/2012	9:00 AM	160 East 300 South, Conference Room 474, Salt Lake City, Utah
13.	This rule change may become effective on (mm/dd/yyyy):		07/09/2012
	NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.		
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid"); may not include the name of the agency:		
	contractors	occupational licensing	
	licensing		
15.	Attach an RTF document containing the text of this rule change (filename):		R156-55a.pro
To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
AGENCY AUTHORIZATION			
Agency head or designee, and title:	Mark B. Steinagel, Director	Date (mm/dd/yyyy):	05/04/2012

R156. Commerce, Occupational and Professional Licensing.

R156-55a. Utah Construction Trades Licensing Act Rule.

R156-55a-602. Contractor License Bonds.

(1) Pursuant to the provisions of Subsections 58-55-306(1)(b) and 58-55-306(4)(c) and except as provided in Subsection R156-55a-602(4), a contractor shall provide a license bond issued by a surety acceptable to the Division in the amount of \$50,000 for the E100 or B100 classification of licensure, \$25,000 for the R100 classification of licensure, or \$15,000 for other classifications or such higher amount as may be determined by the Division and the Commission as provided for in Subsection R156-55a-602(3). An acceptable surety is one that is listed in the Department of Treasury, Fiscal Service, Circular 570, entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" at the date of the bond.

(2) The coverage of the license bond shall include losses that may occur as the result of the contractor's violation of the unprofessional or unlawful provisions contained in Title 58, Chapters 1 and 55 and rules R156-1 and R156-55a including the failure to maintain financial responsibility.

(3) The amount of the bond specified under Subsection R156-55a-602(1) may be increased by an amount determined by the Commission and Division when the financial history of the applicant, licensee or any owner indicates the [\$50,000]bond amount specified in R156-55a-602(1) is insufficient to reasonably cover risks to the public health, safety and welfare. The financial history of the applicant, licensee or any owner, as outlined in Section R156-55a-306 may be reviewed in determining the bond amount required.

(4) A contractor may provide a license bond issued by a surety acceptable to the Division in an amount less than [\$50,000]the bond amount specified in R156-55a-602(1) if:

(a) the contractor demonstrates by clear and convincing evidence that:

(i) the financial history of the applicant, licensee or any owner indicates the [\$50,000]bond amount specified in R156-55a-602(1) is in excess of what is reasonably necessary to cover risks to the public health, safety and welfare;

(ii) the contractor's lack of financial responsibility is due to extraordinary circumstances that the contractor could not control as opposed to general financial challenges that all contractors experience; and

(iii) the contractor's scope of practice will be restricted commensurate with the degree of risk the contract presents to the public health, safety, and welfare; and

(b) the Commission and Division approve the amount.

KEY: contractors, occupational licensing, licensing

Date of Enactment or Last Substantive Amendment: [~~September 12, 2011~~] 2012

Notice of Continuation: October 4, 2011

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101; 58-55-308(1)(a); 58-55-102(39)(a)